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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,787	03/25/2004	Bernard Krone	404039	2786
30008	7590	09/30/2005	EXAMINER	
GUDRUN E. HUCKETT DRAUDT LONSSTR. 53 WUPPERTAL, 42289 GERMANY			TORRES, ALICIA M	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/708,787

Applicant(s)

KRONE ET AL.

Examiner

Alicia M. Torres

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/25/05</u> . | 6) <input type="checkbox"/> Other: _____  |

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cutting device disclosed in claim 2 and the movement sensors of claim 5 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: there is lack of antecedent basis for “the binding device” in the last line. Appropriate correction is required.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lippens et al. 6,134,870 in view of Rewitzer 4,526,094.

5. Regarding claims 1 and 2, Lippens discloses a baler comprising:

- A pick-up (14)
- A feed channel (16)
- A pressing channel (18)
- A conveying device (20), comprising a cutting device, conveying material, in a feed stroke based on the filling of the feed channel, from the feed channel (16) into the pressing channel (18)
- A pressing piston (24)
- A tying device (32).

However, Lippens fails to disclose:

- a sensor detecting bale growth resulting from compression of the harvested material
- an electronic evaluation device

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- the sensor supplies a bale growth value to the electronic evaluation device where it is converted to an average operand for determining the required number of feed strokes for reaching a preset nominal bale length
- the tying device is triggered when the nominal number of feed strokes is completed.

Rewitzer discloses a baling device including:

- a sensor (18) detecting bale growth supplying a bale growth value to an electronic evaluation device where it is converted to an average operand for determining the required number of feed strokes for reaching a preset nominal bale size (see column 2, lines 55-68)
- the clearing device (49) is triggered when the nominal number of feed strokes is completed.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the sensor of Rewitzer on the baling device of Lippens in order to provide bales of identical size.

6. Regarding claims 7-11, Rewitzer discloses a baling device wherein the following method for determining and controlling a bale length is inherent, the method comprising the steps of:

- detecting bale growth steps, defined by a feed stroke, with a sensor
- measuring a bale growth for each bale growth step with a sensor
- sending measured values of bale growth to an electronic evaluation device

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- converting the measured values of bale growth in the electronic evaluation device into an average operand
- calculating with a selectable algorithm a number of nominal feed strokes in the electronic evaluation device based on the averaged operand and a pre-selected nominal bale size each time the bale growth has been measured and incorporating parameters of properties of the harvested material or machine data
- comparing in the electronic evaluation device the number of actual feed strokes against the nominal feed strokes
- upon reaching the nominal number of feed strokes, triggering the clearing device
- storing an initial number of feed strokes, between emptying the feed channel and before a first bale growth is measured and incorporating the initial number of feed strokes in calculating the number of nominal feed strokes.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lippens and Rewitzer as applied to claim 1 above, and further in view of Mesmer et al. 6,708,478.

The device is disclosed as applied above. However, the combination fails to disclose a remote-control operating unit.

Mesmer discloses a similar baling apparatus including a remote-control operating unit (20).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the remote-control of Mesmer on the device of Lippens and Rewitzer in order to provide advantageous positioning.

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8. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lippens and Rewitzer as applied to claim 1 above, and further in view of Schrag 5,782,175.

The device is disclosed as applied to claim 1 above. However, the combination fails to disclose wherein the sensor for detecting the bale growth measures an actual length change of the bale after a feed and press stroke, as per claim 4;

the sensor being a thumb wheel interacting with movement sensors, as per claim 5.

Schrag discloses a similar baling apparatus wherein the sensor (16) for detecting the bale growth measures an actual length change of the bale after a feed and press stroke;

including a thumb wheel (18) for measuring the length of a bale.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the thumb wheel of Schrag on the device of Lippens and Rewitzer in order to determine a full length of a bale.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lippens and Rewitzer as applied to claim 1 above, and further in view of Innes 2,030,031.

The device is disclosed as applied above. However, the combination fails to disclose wherein the sensor is configured to measure the bale growth by measuring a length of removed tying material.

Innes discloses a baling apparatus that measures the amount of stalks going into a bale by a metering means at a side of a tying device.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the measuring device of Innes on the baler of Lippens and Rewitzer in order to measure a bale.

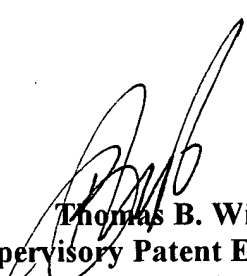
***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Crawford, White, and Van Doorn et al. have been cited as of interest.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
September 25, 2005